IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3752 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NALINKUMAR VALJIBHAI PITHADIA

Versus

KAMLESH PANACHAND SONI

Appearance:

1. Criminal Misc.Application No. 3752 of 1999

MR JC GOHIL (died) for applicant No. 1

MR MJ BUDDHBHATTI for opponent No. 1

MS NANDINI JOSHI APP for opponent No. 2

MR YOGESH S LAKHANI for opponent No. 3

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 08/08/2003

ORAL JUDGEMENT

1. By filing this application under section 482 of the Code of Criminal Procedure, the applicant, against whom complaint is lodged by Valjibhai Laxmanbhai Dodia, opponent No.3 herein, which has been registered vide CR No.412 of 1998 at Pradyumannagar Police station, Rajkot for the commission of the alleged offences under sections 419, 420, 406, 465, 468, 471, 506 (2), 120-B and 114 of IPC, has prayed to quash the said complaint.

2. At the time of hearing of this application, attention of this Court is drawn to a letter dated 8.10.2002 written by opponent No.3/original complainant addressed to the Honourable the Chief Justice of this Court stating that the applicant Nalinkumar Valjibhai Pithadia, who filed this quashing petition and obtained stay against investigation, has died on 17.2.2002. It is further stated in the said letter that since the applicant has died, the matter may be taken on board for passing appropriate orders. Alongwith the letter, death certificate in respect of the applicant is also enclosed.

3. On the basis of the said information and request made in the letter, the Registry has made a submission inter alia stating that the applicant has died on 17.2.2002. In the said submission it is also mentioned that the learned advocate Mr. J.C.Gohil who represented the applicant has also died and, therefore, permission was sought for placing the matter on board. Resultantly this matter is placed on board for passing appropriate orders.

4. Having considered the aforesaid letter written by the original complainant/opponent No.3 herein alongwith the death certificate in respect of the death of the applicant and the submission made by the Registry, there is no manner of doubt that the applicant who is original accused No.1 in CR No.412/98 of Pradyumannagar Police station, Rajkot for commission of the alleged offences under sections 419, 420, 406, 465, 468, 471, 502 (2), 120-B and 114 of IPC has died. Resultantly, the said complaint qua the applicant/original accused No.1 is abated and, therefore, now this application for quashing the complaint qua the applicant does not survive.

5. In the aforesaid view of the matter, this petition stands disposed of as it does not survive. The complaint being CR No.412 of 1998 of Pradyumannagar Police Station, Rajkot, qua the applicant/original accused No.1 stands abated. Rule is discharged. Interim relief by which stay of investigation into CR No.412/98 of Pradyumannagar Police station, Rajkot is granted shall

stand vacated.

(A.M. Kapadia, J.)

(karan)